Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Creation of a Low Power Radio Service	)	MM Docket No. 99-25
	)	
	)	

To: Office of the Secretary
Attn: The Commission

COMMENTS OF THE NEW JERSEY BROADCASTERS ASSOCIATION

The New Jersey Broadcasters Association ("NJBA"), by counsel, its members being substantially all of the radio and television broadcast stations licensed to New Jersey, hereby submits its comments in response to the Commission's Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking and Fourth Order on Reconsideration, released March 19, 2012, in support of the Commission's proposal to eliminate the LP10 class of service. In support thereof, the following is submitted:

1. The Commission has historically recognized the need for increased spectrum efficiency in the FM band because of the great increase in the number of stations.[1] Unfortunately, its actions, including its adoption of an LP10 class of LPFM stations, have not always followed in step with its words. The FCC's adoption of an LP10 class of 10 watt station is spectrum inefficiency.

[1] *1998 Biennial Regulatory Review — Streamlining of Radio Technical Rules in Parts 73 and 74 of the Commission's Rules*, FCC 00-368, para. 23 (2000) ("The substantial increase in the number of licensed stations since 1983 magnifies the need for measures to increase the efficiency of FM spectrum use").

2. The attached exhibit illustrates the large area of spectrum space occupied by the interfering contours of LP100 and LP10 stations compared to the relatively small areas serviced by such stations. In particular, an LP10 station operating at maximum facilities has a service area of but approximately 12 square miles. Using the Commission's current standards, the interference contour for an LP10 ranges from over 126 square miles with respect to Class A stations, to over 244 square miles with respect to Class B stations. In other words, for a service area of a mere 12 square miles, an LP10 carves out an area of interference that is almost 2000% larger with respect to Class B stations. In New Jersey, this would result in cannibalization of existing service.

3. As applied to New Jersey, the grant of LP10 stations would be diametrically opposed to the Commission's goal of a spectrum efficient FM service. The decision to create an LP10 Class of station by the Commission was almost a complete about-face from previous efforts to deal with the inefficiencies of 10-watt stations and their preclusive effect on "the establishment or extension of operations to bring service where it was needed."[2] The harm these low power stations previously created far outweighed any benefit they might provide. The Commission is correct in now proposing to preclude their establishment in the state of New Jersey and across the nation.

4. The Commission's LP10 class of stations would create the same problems that led the Commission to impose a freeze on similarly situated stations in the late 1970s. The FM landscape is far more cluttered today than it was when the Commission

[2] *Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations*, 70 FCC 2d 972, 973 (1979).

took that action.[3] The preclusive effect these LP10 stations will have on the provision of service where needed is exponentially greater now than when the Commission imposed its freeze.

5. A significant problem with the earlier Class D 10 watt low power stations was that:

> the assignment … proceeded on a demand system without any attempt … to have a Table of Assignments of channels to particular localities or, in any part of the country, to require the use of at least minimum facilities. **The consequence was an inefficient pattern of assignments**.[4]

Nevertheless, that is precisely the regime the Commission has established for LP10 stations. The Commission has resurrected nearly the exact scheme that, over twenty years ago, it determined failed to serve the public interest. It is crucial that the Commission step back and take into account the debilitating state of affairs in New Jersey broadcasting, in particular, and take all possible steps to avoid aggravating the situation.

6. The Commission's licensing model also fails to take into account changing FM listening patterns. The FM audience no longer consists of static listeners, sitting at home, receiving FM signals from a fixed antenna. Instead, the audience has become dynamic, listening primarily in a mobile environment with more challenging reception requirements. With an indiscriminate invasion of LP10 stations in New Jersey, the mobile listener will typically drive into one or more large areas of interference. Listeners expect interference free reception. They will not tolerate fluctuating signals

[3] *See* n. 1 *supra*.

[4] Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations, 70 FCC 2d 972, para. 5 (1979).

arising from squalls of interference, as they drive through the signals of LP10 stations scattered through the service areas of full power FM stations.

7. Accordingly, the New Jersey Broadcasters Association fully supports the Commission' proposal in the Fifth Report and Order, Fourth Further Notice of Proposed Rulemaking and Fourth Order on Reconsideration to not license LP10 stations.

Respectfully submitted,

NEW JERSEY BROADCASTERS ASSOICATION

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INTERFERENCE EFFECT OF LOW POWER FM STATIONS

The service and interference areas are listed below based on an assumption of uniform radius for each. All contours calculated with V-Soft CONTOUR program. Interference areas are calculated for the (50,10) interfering contours for the existing 60 dBu, 57 dBu (B1) and 54 dBu service contours for all stations. These relative areas illustrate the large area of spectrum space occupied by the interfering contours compared to the relatively small service areas.

LP100

	Class	Contour	Radius (km/mi)	Area (sq km/sq mi)	Interference to Service
Service	LP100	60 dBu (50,50)	5.6 (3.48)	99 (38.22)	N/A
Interference					
	A	40 dBu (50,10)	18.6 (11.56)	1,087 (419.69)	1098%
	B1	37 dBu (50,10)	22.4 (13.92)	1,576 (608.50)	1592%
	B	34 dBu (50,10)	26.8 (16.65)	2,256 (871.05)	2279%

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LP10

	Class	Contour	Radius (km/mi)	Area (sq km/sq mi)	Interference to Service
Service	LP10	60 dBu (50,50)	3.2 (19.88)	32 (12.36)	N/A
Interference					
	A	40 dBu (50,10)	10.2 (203.19)	327 (126.26)	1022%
	B1	37 dBu (50,10)	12 (280.86)	452 (174.52)	1413%
	B	34 dBu (50,10)	14.2 (393.95)	634 (244.79)	1982%